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9 NATIONAL RAILROAD PASSENGER
10 CORPORATION dba AMTRAK and JOE DEELY

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13 JOHN EARL CAMPBELL,

14 Plaintiff,

15 v.

16 NATIONAL RAILROAD PASSENGER
17 CORPORATION dba AMTRAK, JOE DEELY,
18 and DOES 1-15, inclusive,

19 Defendants.

Case No. C05-05434 MJJ (EDL)

**DEFENDANT NATIONAL RAILROAD
PASSENGER CORPORATINO'S
SEPARATE STATEMENT OF
INTERROGATORIES IN DISPUTE**

Complaint Filed: 12/30/05
FAC Filed: 2/23/06
Trial: 7/23/2007

Hearing Date: May 1, 2007
Hearing Time: 9:00 a.m.
Dept.: Courtroom E, 15th Floor

Magistrate Judge Elizabeth D. Laporte

DISCOVERY MATTER

Pursuant to Local Rule 37-2, Defendant NATIONAL RAILROAD PASSENGER CORPORATION (aka AMTRAK) provides a listing of the interrogatories in dispute and the responses verbatim. The reasons to deny Plaintiff's Motion to Compel is included in Amtrak's Opposition memorandum and the accompanying Declaration of Cara Ching-Senaha filed and served concurrently herewith.

INTERROGATORY NO. 1:

State the total number of complaints of race discrimination by African-American employee(s) within the last seven (7) years in Defendant Amtrak's Oakland Yard, Sacramento Yard, and other Bay Area locations where Mr. CAMPBELL was assigned.

RESPONSE TO INTERROGATORY NO. 1.

Objection. Defendant objects to the request as vague, ambiguous, overbroad in time and scope, lacking the requisite specificity, compound and violative of the rights of privacy. Moreover, Defendant objects to the request as calling for information that is neither relevant to the litigation nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing, Amtrak responds as follows:

Within the last seven years, there have been four court cases filed in Northern California in which an African-American employee has alleged race discrimination.

REASONS WHY FURTHER RESPONSE SHOULD BE COMPELLED:

None provided by Plaintiff.

REASONS WHY NO FURTHER RESPONSE SHOULD BE COMPELLED:

Plaintiff's Interrogatory No. 1 asks that Amtrak list the total number of race discrimination complaints made by African-American employee(s) within the last seven (7) years within the Pacific Division. Amtrak's answer listed the number of publicly-filed lawsuits in which race discrimination has been alleged.

Amtrak rightfully objected to list the number of *internal* complaints in which race discrimination was alleged because such information necessarily involves private, state and federally-protected information that Amtrak has an obligation to protect. *Board of Trustees of Leland Stanford Junior University v. Superior Court*, 119 Cal.App.3d 516 (1981) (personnel

1 records subject to Constitutional right of privacy); *Valley Bank of Nevada v. Superior Court*, 15
2 Cal.3d 652, 657 (1975) (A party to an action may assert the privacy rights of third parties such as
3 its employees); *Harding Lawson Assoc. v. Superior Court*, 10 Cal.App.4th 7, 10 (1992); *Onwuka*
4 *v. Federal Express Corp.*, 178 F.R.D. 508, 517 (7th Cir. D. Minn. 1997) (recognizing the privacy
5 rights of third-parties to avoid the disclosure of their personal information).

6 California state and federal courts have recognized that employment records and
7 personnel files fall within the constitutionally protected right to privacy. *See Board of Trustees v.*
8 *Superior Court* (1981) 119 Cal.App.3d 516 (personnel records subject to Constitutional right of
9 privacy). In this case, these privacy rights apply to non-parties who are not involved in the
10 litigation. *See Valley Bank of Nevada v. Superior Court* (1975) 15 Cal.3d 652, 656.

11 In balancing the right of privacy against the interest in discovery, the party seeking
12 disclosure must meet a high standard: even when discovery of private information is deemed
13 directly relevant to the litigation, it will not be automatically allowed. The court must carefully
14 balance the plaintiff's compelling public need for discovery against the fundamental right of
15 privacy. *Board of Trustees*, 119 Cal.App.3d at 525. Indeed, "the initiation of a lawsuit does not,
16 by itself, grant [a plaintiff] the right to rummage unnecessarily and unchecked through the private
17 affairs of anyone he chooses." *Cook v. Yellow Freight Systems, Inc.* 132 F.R.D. 548, 551 (E.D.
18 Cal. 1990).

19 As the party seeking the constitutionally protected information, Plaintiff has the burden of
20 establishing that the information sought cannot be obtained through less intrusive means. *See*
21 *Tylo v. Superior Court* (1997) 55 Cal.App.4th 1379, 1387; *Miller v. Federal Express Corp.*, 186
22 FRD 376, 384 (W.D. TN 1999); *Matter of Hawaii Corp.*, 88 FRD 518, 524 (D. Haw. 1980).
23 Plaintiff has failed to demonstrate that the information he seeks cannot be obtained through non-
24 confidential sources or less obtrusive means. Tellingly, Plaintiff has attended at least seven
25 depositions so far, including that of Amtrak's Human Resources Officer Susan Venturelli, and not
26 once did Plaintiff's attorney ask about other race discrimination complaints – a less intrusive way
27 to obtain the information that Plaintiff claims he so desperately needs.
28

1 **2. Moreover, Interrogatory No. 1 Is Overbroad and Irrelevant**

2 Even if Plaintiff could meet the heightened burden that applies to constitutionally-
3 protected information, Interrogatory No. 1 is overbroad. First, the interrogatory is not limited to
4 the persons against whom complaints of race discrimination were made. Discovery of past
5 complaints must be limited to those made against the specific persons who alleged harassed or
6 discriminated against the plaintiff. Here, Mr. Campbell does not limit his interrogatory to internal
7 complaints against Steve Shelton (the person who decided to terminate his employment) nor
8 against the individuals who decided against his promotion to Engineer (e.g., Venturelli, Follis,
9 Ho).

10 Courts have long ordered that such discovery should be limited and narrowly tailored to
11 suit the facts in the particular case:

12 [D]iscovery in Title VII cases involving highly individualized
13 claims of discriminatory treatment should be restricted to the
14 practices at issue in the case, applied to employees in similar
15 circumstances to determine if the employer treats all of its
16 employees under those circumstances in the same manner, or
17 whether it treats employees similarly circumstanced differently and
 there is some basis for concluding that the difference in treatment is
 predicated on race, sex or some other grounds of unlawful
 discrimination.

18 *Suggs v. Capital Cities/ABC, Inc.*, 122 F.R.D. 430, 431 (S.D. N.Y. 1988) (quoting *Hardrick v.*
19 *Legal Services Corp.*, 96 F.R.D. 617, 619 (D.D.C. 1983)).

20 In addition, Interrogatory No. 1 is overbroad because it asks for information about *all*
21 internal complaints for the last seven years (including three years after Plaintiff's discharge)
22 regardless of whether the complaint concerned a failed promotion to Engineer or discipline
23 resulting from a serious safety violation of the same type and severity as those committed by
24 Plaintiff.

25 The interrogatory is also overbroad as to location. All of the issues that Plaintiff raises
26 concern his work and nonpromotion at Amtrak's Oakland location, not other locations
27 (Sacramento, San Francisco, San Jose, etc.) within Amtrak's Pacific Division. The FAC focuses
28 on *Plaintiff's* unsuccessful applications for promotion and discharge. He does not allege a claim

1 for disparate impact allegedly as a result of Amtrak's hiring policies and practices.¹

2 Furthermore, the interrogatory is overbroad as to time. Plaintiff should not be permitted
3 to discover complaints, if any, that were made after his termination in September 2004. Nor
4 should he be permitted to discovery complaints, if any, that may have been made before the
5 applicable statute of limitations (4 years or no earlier than December 30, 2001, *Jones v. R.R.*
6 *Donnelly & Sons, Co.*, 124 S.Ct. 1836, 1845 (2004), 2004 U.S. LEXIS 3236 at *20). *Onwuka*,
7 *supra*, 178 F.R.D. at 118 (narrowing scope of discovery to three years preceding plaintiff's
8 discharge and to the location at which plaintiff worked).

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12 **INTERROGATORY NO. 5.**

13 State the total number of assistant conductors hired in the Pacific Division by year
14 between January 1998 to the present.

15 **RESPONSE TO INTERROGATORY NO. 5.**

16 Objection. Defendant objects to the request as vague, ambiguous, overbroad,
17 lacking the requisite specificity, and compound. Moreover, Defendant objects to the request as
18 calling for information that is neither relevant to the litigation nor reasonably calculated to lead to
19 the discovery of admissible evidence.

20 **REASONS WHY FURTHER RESPONSE SHOULD BE COMPELLED:**

21 None provided by Plaintiff.

22 **REASONS WHY NO FURTHER RESPONSE SHOULD BE COMPELLED:**

23 **1. The Interrogatories Are Irrelevant**

24 Plaintiff's Interrogatories 5, 6, and 9 through 11 concern certain information relating to
25 Amtrak's hiring of conductors and assistant conductors. In his motion to compel, Plaintiff

26
27 ¹ Even in disparate treatment cases, discovery should be limited to employees within certain work
28 units and who have suffered similar treatment as the plaintiff. *Robbins v. Camden City Bd. of Education*, 105 F.R.D. 49 (D.N.J. 1985); *United States v. Concemi*, 957 F.2d 942, 949 (1st Cir. 1992).

1 contends that evidence of Amtrak's hiring and termination practices of conductors and assistant
 2 conductors are necessary to prove intentional discrimination against. Plaintiff callously omits the
 3 fact that the entire FAC concerns Amtrak's alleged hiring or promoting of African-American
 4 Engineers – *not* African-American Conductors. *See* FAC at ¶¶ 8-10. Therefore, the hiring and
 5 discharging of African-American conductors is patently irrelevant.²

6 **2. Plaintiff Exceeded The Permissible Number of Interrogatories**

7 Fed.R.Civ.Proc. 33 limits written interrogatories to 25 in number "including all discrete
 8 subparts." (emphasis added) As such, interrogatories containing discrete subparts are counted as
 9 separate interrogatories towards the 25 interrogatory limit. In addition, the Court at the start of
 10 the litigation limited the number of interrogatories that a party may propound, absent a separate
 11 court order. (Order, attached to Ching-Senaha Decl. as Exh. F) Starting at Plaintiff's
 12 Interrogatory No. 9, Amtrak rightfully declined to provide a substantive response because
 13 Plaintiff had exceeded the limit on interrogatories set by the Court.

14 For example, in Interrogatory No. 7 (not at issue in this motion), Plaintiff asked Amtrak to
 15 list for each year starting from 1998 the number of Engineers that Amtrak hired to work in its
 16 Pacific Division. As such, Plaintiff's interrogatory counted as six separate interrogatories. Had
 17 Plaintiff asked for the number of Engineers hired in the Pacific Division between 1998 through
 18 the present, the interrogatory would have counted as one instead of seven. Plaintiff committed
 19 the same offense in Interrogatory No. 8 (also not at issue), in which Plaintiff asked Amtrak to list
 20 for each starting from 1998 the number of African-American Engineers hired to work in its
 21 Pacific Division. Defense counsel noted this fact in Amtrak's response. As explained above,
 22 rather than meet and confer in good faith about Plaintiff's excessive interrogatories, Plaintiff filed
 23 this motion to compel.

24 The court's order can only be modified upon a showing of good cause. Fed. R. Civ. P.
 25 16(f). Rule 16(b)'s 'good cause' standard focuses on the diligence of the party seeking the
 26 amendment. Carelessness by Plaintiff to discretely select which interrogatories she would
 27 propound in light of the Court's limitation does not justify a grant of relief. *Engleson v.*

28 ² Amtrak responded to Plaintiff's interrogatories as they relate to Engineers.

1 *Burlington Northern R.R. Co.*, 972 F.2d 1038 (9th Cir. 1992) (carelessness not a ground for relief
2 under Rule 60(b)); *Martella v. Marine Cooks & Stewards Union* 448 F.2d 729, 730 (9th Cir.
3 1971) (same), cert. denied, 405 U.S. 974, 92 S.Ct. 1191, 31 L.Ed. 2d 248 (1972); *Smith v. Stone*,
4 308 F.2d 15, 18 (9th Cir. 1962) (same). *Johnson v. Mammoth Recreations Inc.* (9th Cir. 1992)
5 975 F.2d 604, 609. If the party seeking the modification is not diligent, the inquiry regarding
6 good cause "should end." *Id.*

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8 * * *

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10 **INTERROGATORY NO. 6.**

11 State the total number of African-American assistant conductors hired in the
12 Pacific Division by year between January 1998 to the present.

13 **RESPONSE TO INTERROGATORY NO. 6.**

14 Objection. Defendant objects to the request as vague, ambiguous, overbroad,
15 lacking the requisite specificity, and compound. Moreover, Defendant objects to the request as
16 calling for information that is neither relevant to the litigation nor reasonably calculated to lead to
17 the discovery of admissible evidence.

18 **REASONS WHY FURTHER RESPONSE SHOULD BE COMPELLED:**

19 None provided by Plaintiff.

20 **REASONS WHY NO FURTHER RESPONSE SHOULD BE COMPELLED:**

21 Defendant hereby incorporates by reference as though fully set forth herein the same
22 reasons stated with regard to Interrogatory No. 5. In the interest of brevity, Amtrak does not
23 repeat the same passages.

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25 * * *

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27 **INTERROGATORY NO. 9.**

28 State the total number of African-American assistant conductors employed in the

Pacific Division by year from January 1998 to the present.

RESPONSE TO INTERROGATORY NO. 9.

Objection. Defendant objects to the request as vague, ambiguous, overbroad, lacking the requisite specificity, compound, and unduly burdensome and oppressive. Moreover, Defendant objects to the request as calling for information that is neither relevant to the litigation nor reasonably calculated to lead to the discovery of admissible evidence. Defendant hereby gives notice that this interrogatory sets forth six separate interrogatories and that Plaintiff has exceeded the permissible number of interrogatories.

REASONS WHY FURTHER RESPONSE SHOULD BE COMPELLED:

None provided by Plaintiff.

REASONS WHY NO FURTHER RESPONSE SHOULD BE COMPELLED:

Defendant hereby incorporates by reference as though fully set forth herein the same reasons stated with regard to Interrogatory No. 5. In the interest of brevity, Amtrak does not repeat the same passages.

* * *

INTERROGATORY NO. 10.

IDENTIFY each African-American conductor who applied for a position as engineer in the Pacific Division from January 1998 to the present.

RESPONSE TO INTERROGATORY NO. 10.

Objection. Defendant objects to the request as vague, ambiguous, overbroad, lacking the requisite specificity, compound, and unduly burdensome and oppressive. Moreover, Defendant objects to the request as calling for information that is neither relevant to the litigation nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, Defendant objects to this interrogatory as calling for private information that is guaranteed under the United States and California Constitutions. Defendant hereby gives notice that Plaintiff has exceeded the permissible number of interrogatories.

REASONS WHY FURTHER RESPONSE SHOULD BE COMPELLED:

None provided by Plaintiff.

REASONS WHY NO FURTHER RESPONSE SHOULD BE COMPELLED:

Defendant hereby incorporates by reference as though fully set forth herein the same reasons stated with regard to Interrogatory No. 5. In the interest of brevity, Amtrak does not repeat the same passages.

* * *

INTERROGATORY NO. 11.

List, by race only, all assistant conductors terminated in the Pacific Division from January 1, 1995 to the present, including involuntary terminations.

RESPONSE TO INTERROGATORY NO. 11.

Objection. Defendant objects to the request as vague, ambiguous, overbroad, lacking the requisite specificity, compound, and unduly burdensome and oppressive. Moreover, Defendant objects to the request as calling for information that is neither relevant to the litigation nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, Defendant objects to this interrogatory as calling for private information that is guaranteed under the United States and California Constitutions. Defendant hereby gives notice that Plaintiff has exceeded the permissible number of interrogatories.

REASONS WHY FURTHER RESPONSE SHOULD BE COMPELLED:

None provided by Plaintiff.

REASONS WHY NO FURTHER RESPONSE SHOULD BE COMPELLED:

Defendant hereby incorporates by reference as though fully set forth herein the same reasons stated with regard to Interrogatory No. 5. In the interest of brevity, Amtrak does not repeat the same passages.

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1 **INTERROGATORY NO. 12**

2 **IDENTIFY** all African-American engineers terminated in the Pacific Division
3 from January 1998 to the present, including involuntary terminations.

4 **RESPONSE TO INTERROGATORY NO. 12.**

5 Objection. Defendant objects to the request as vague, ambiguous, overbroad,
6 lacking the requisite specificity, compound, and unduly burdensome and oppressive. Moreover,
7 Defendant objects to the request as calling for information that is neither relevant to the litigation
8 nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, Defendant
9 objects to this interrogatory as calling for private information that is guaranteed under the United
10 States and California Constitutions. Defendant hereby gives notice that Plaintiff has exceeded the
11 permissible number of interrogatories.

12 **REASONS WHY FURTHER RESPONSE SHOULD BE COMPELLED:**

13 None provided by Plaintiff.

14 **REASONS WHY NO FURTHER RESPONSE SHOULD BE COMPELLED:**

15 Defendant hereby incorporates by reference as though fully set forth herein the same
16 reasons stated with regard to Interrogatory No. 5. In the interest of brevity, Amtrak does not
17 repeat the same passages.

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19 * * *

20 **INTERROGATORY NO. 13.**

21 **IDENTIFY** all of the decision-makers involved in deciding to promote the
22 following individuals to Engine Service in Oakland in the year 2000:

23 E.A. Ohman

24 S.L. McLauchlin

25 D.A. Milburn

26 J.R. Kyles

27 G. B. Santos

28 B. Wilson

RESPONSE TO INTERROGATORY NO. 13.

Objection. Defendant objects to the request as vague, ambiguous, overbroad, lacking the requisite specificity, compound, and unduly burdensome and oppressive. Moreover, Defendant objects to the request as calling for information that is neither relevant to the litigation nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, Defendant objects to this interrogatory as calling for private information that is guaranteed under the United States and California Constitutions. Defendant hereby gives notice that Plaintiff has exceeded the permissible number of interrogatories.

REASONS WHY FURTHER RESPONSE SHOULD BE COMPELLED:

None provided by Plaintiff.

REASONS WHY NO FURTHER RESPONSE SHOULD BE COMPELLED:

Fed.R.Civ.Proc. 33 limits written interrogatories to 25 in number “including all discrete subparts.” (emphasis added) As such, interrogatories containing discrete subparts are counted as separate interrogatories towards the interrogatory limit. In addition, the Court at the start of the litigation limited the number of interrogatories that a party may propound, absent a separate court order. (Order, attached to Ching-Senaha Decl. as Exh. G) Starting at Plaintiff’s Interrogatory No. 9, Amtrak rightfully declined to provide a substantive response because Plaintiff had exceeded the limit on interrogatories set by the Court.

For example, in Interrogatory No. 7 (not at issue in this motion), Plaintiff asked Amtrak to list for each year starting from 1998 the number of Engineers that Amtrak hired to work in its Pacific Division. As such, Plaintiff’s interrogatory counted as six separate interrogatories. Had Plaintiff asked for the number of Engineers hired in the Pacific Division between 1998 through the present, the interrogatory would have counted as one instead of seven. Plaintiff committed the same offense in Interrogatory No. 8 (also not at issue), in which Plaintiff asked Amtrak to list for each starting from 1998 the number of African-American Engineers hired to work in its Pacific Division. Defense counsel noted this fact in Amtrak’s response. As explained above, rather than meet and confer in good faith about Plaintiff’s excessive interrogatories, Plaintiff filed this motion to compel.

1 The court's order can only be modified upon a showing of good cause. Fed. R. Civ. P.
2 16(f). Rule 16(b)'s 'good cause' standard focuses on the diligence of the party seeking the
3 amendment. Carelessness by Plaintiff to discretely select which interrogatories she would
4 propound in light of the Court's limitation does not justify a grant of relief. *Engleson v.*
5 *Burlington Northern R.R. Co.*, 972 F.2d 1038 (9th Cir. 1992) (carelessness not a ground for relief
6 under Rule 60(b)); *Martella v. Marine Cooks & Stewards Union* 448 F.2d 729, 730 (9th Cir.
7 1971) (same), cert. denied, 405 U.S. 974, 92 S.Ct. 1191, 31 L.Ed. 2d 248 (1972); *Smith v. Stone*,
8 308 F.2d 15, 18 (9th Cir. 1962) (same). *Johnson v. Mammoth Recreations Inc.* (9th Cir. 1992)
9 975 F.2d 604, 609. If the party seeking the modification is not diligent, the inquiry regarding
10 good cause "should end." *Id.*

11 Plaintiff's Interrogatories 13 – 17 ask Amtrak to identify the persons who decided the hire
12 or promotion of 24 individuals to Engineer. Amtrak objected to the interrogatories on a variety of
13 grounds. Assuming arguendo the Court finds that Plaintiff has not exceeded the permissible
14 number of interrogatories, it would be unduly burdensome and oppressive to require Amtrak to
15 provide specific responses. Amtrak has no computerized records to identify which person or
16 persons made the decisions to hire or promote. (Ching-Senaha Decl.) Accordingly, Amtrak
17 produced more than six months ago documents on every applicant for every Engineer position for
18 which Plaintiff contends he applied, even when Amtrak's records show and Plaintiff's admissions
19 prove that Plaintiff never applied for any position outside of Oakland. (Venturelli Decl., ¶¶ 11,
20 12; Pl. Depo., 45:5-13) These same records include applications, interview notes prepared by the
21 persons who conducted the interviews, other supporting documentation, and papers signed by
22 those who approved the final hire/promotion decision. (Ching-Senaha Decl.) The information
23 that Plaintiff requests in Interrogatories 13 – 17 is contained in the paper records that Amtrak
24 produced to Plaintiff in August of 2006 and is equally available to Plaintiff as to Amtrak. (Ching-
25 Senaha Decl.)

26 As for Plaintiff's Interrogatory No. 18, Amtrak rightfully objected because Plaintiff has
27 exceeded the number of interrogatories permitted by the Court. If, however, the Court sustains
28 that part of Plaintiff's motion, Amtrak agrees to amend its response to list Steve Shelton as the

1 person who decided on the discipline given to Plaintiff as a result of the July 2004 incident,
2 information that Plaintiff already has.

3
4 * * *

5 **INTERROGATORY NO. 14.**

6 IDENTIFY all of the decision-makers involved in deciding to promote the
7 following individuals to Engine Service in Oakland in the year 2001:

8 J. Waterhouse

9 R. Ward

10 C.M. Skinner

11 K. Powell

12 T. Evans

13 W. Giddings

14 **RESPONSE TO INTERROGATORY NO. 14.**

15 Objection. Defendant objects to the request as vague, ambiguous, overbroad,
16 lacking the requisite specificity, compound, and unduly burdensome and oppressive. Moreover,
17 Defendant objects to the request as calling for information that is neither relevant to the litigation
18 nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, Defendant
19 objects to this interrogatory as calling for private information that is guaranteed under the United
20 States and California Constitutions. Defendant hereby gives notice that Plaintiff has exceeded the
21 permissible number of interrogatories.

22 **REASONS WHY FURTHER RESPONSE SHOULD BE COMPELLED:**

23 None provided by Plaintiff.

24 **REASONS WHY NO FURTHER RESPONSE SHOULD BE COMPELLED:**

25 Defendant hereby incorporates by reference as though fully set forth herein the same
26 reasons stated with regard to Interrogatory No. 13. In the interest of brevity, Amtrak does not
27 repeat the same passages.

* * *

INTERROGATORY NO. 15.

IDENTIFY all of the decision-makers involved in deciding to promote the following individuals to Engine Service in Oakland in the year 2002:

D.W. Klitzing

K. Hanson

D.G. Sell

RESPONSE TO INTERROGATORY NO. 15.

Objection. Defendant objects to the request as vague, ambiguous, overbroad, lacking the requisite specificity, compound, and unduly burdensome and oppressive. Moreover, Defendant objects to the request as calling for information that is neither relevant to the litigation nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, Defendant objects to this interrogatory as calling for private information that is guaranteed under the United States and California Constitutions. Defendant hereby gives notice that Plaintiff has exceeded the permissible number of interrogatories.

REASONS WHY FURTHER RESPONSE SHOULD BE COMPELLED:

None provided by Plaintiff.

REASONS WHY NO FURTHER RESPONSE SHOULD BE COMPELLED:

Defendant hereby incorporates by reference as though fully set forth herein the same reasons stated with regard to Interrogatory No. 13. In the interest of brevity, Amtrak does not repeat the same passages.

* * *

INTERROGATORY NO. 16.

IDENTIFY all of the decision-makers involved in deciding to promote the following individuals to Engine Service in Oakland in the year 2003:

K. Marty

1 F. J. Caron

2 **RESPONSE TO INTERROGATORY NO. 16.**

3 Objection. Defendant objects to the request as vague, ambiguous, overbroad, lacking the
4 requisite specificity, compound, and unduly burdensome and oppressive. Moreover, Defendant
5 objects to the request as calling for information that is neither relevant to the litigation nor
6 reasonably calculated to lead to the discovery of admissible evidence. Moreover, Defendant
7 objects to this interrogatory as calling for private information that is guaranteed under the United
8 States and California Constitutions. Defendant hereby gives notice that Plaintiff has exceeded the
9 permissible number of interrogatories.

10 **REASONS WHY FURTHER RESPONSE SHOULD BE COMPELLED:**

11 None provided by Plaintiff.

12 **REASONS WHY NO FURTHER RESPONSE SHOULD BE COMPELLED:**

13 Defendant hereby incorporates by reference as though fully set forth herein the same
14 reasons stated with regard to Interrogatory No. 13. In the interest of brevity, Amtrak does not
15 repeat the same passages.

16
17 * * *

18 **INTERROGATORY NO. 17.**

19 **IDENTIFY** all of the decision-makers involved in deciding to promote the
20 following individuals to Engine Service in Oakland in the year 2004:

21 Mike J. Yacovetti

22 Patrick Duncan

23 Than Ly

24 John Hanson

25 Wes M. Duvall

26 Heidi J. Snyder

27 Brice Carroll

RESPONSE TO INTERROGATORY NO. 17.

Objection. Defendant objects to the request as vague, ambiguous, overbroad, lacking the requisite specificity, compound, and unduly burdensome and oppressive. Moreover, Defendant objects to the request as calling for information that is neither relevant to the litigation nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, Defendant objects to this interrogatory as calling for private information that is guaranteed under the United States and California Constitutions. Defendant hereby gives notice that Plaintiff has exceeded the permissible number of interrogatories.

REASONS WHY FURTHER RESPONSE SHOULD BE COMPELLED:

None provided by Plaintiff.

REASONS WHY NO FURTHER RESPONSE SHOULD BE COMPELLED:

Defendant hereby incorporates by reference as though fully set forth herein the same reasons stated with regard to Interrogatory No. 13. In the interest of brevity, Amtrak does not repeat the same passages.

* * *

INTERROGATORY NO. 18.

IDENTIFY all of the decision-makers involved in deciding the discipline imposed on each employee involved in the July 24, 2004 incident inside the Oakland Yard where Mr. CAMPBELL was accused of failing to properly secure the brakes on a locomotive.

RESPONSE TO INTERROGATORY NO. 18.

Objection. Defendant objects to the request as vague, ambiguous, overbroad, lacking the requisite specificity, compound, and unduly burdensome and oppressive. Moreover, Defendant objects to the request as calling for information that is neither relevant to the litigation nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, Defendant objects to this interrogatory as calling for private information that is guaranteed under the United States and California Constitutions. Defendant hereby gives notice that Plaintiff has exceeded the permissible number of interrogatories.

REASONS WHY FURTHER RESPONSE SHOULD BE COMPELLED:

None provided by Plaintiff.

REASONS WHY NO FURTHER RESPONSE SHOULD BE COMPELLED:

Defendant hereby incorporates by reference as though fully set forth herein the same reasons stated with regard to Interrogatory No. 13. In the interest of brevity, Amtrak does not repeat the same passages.

Respectfully submitted,

Date: April 10, 2007

JACKSON LEWIS LLP

By: /s/ Cara Ching-Senaha

Kathleen Maylin
Cara Ching-Senaha
Attorneys for Defendants
NATIONAL RAILROAD PASSENGER
CORPORATION dba AMTRAK and
JOE DEELY

H:\N\National Railroad Passenger Corp (40707)\Campbell (89560)\Pleadings\Pltf 2d mtn to compel (re Amtrak IOG response)\SEPARATE STMT of IOGS in dispute.doc